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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN M. KOEGLER, III, ANDREW L. VAN BROCKLIN,
DARWIN MITCHEL HANKS and MARK T. MAGUIRE

Appeal 2009-009944
Application 10/661,722
Technology Center 2600

Before ALLEN R. MacDONALD, CARLA M. KRIVAK and
THOMAS S. HAHN, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Introduction

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 2-4, 6-22, and 24-33. We have jurisdiction under 35 U.S.C. § 6(b).

Exemplary Claim(s)

Exemplary claims 21 and 22 under appeal read as follows:

Claim 21. An optical disk drive, comprising:
a spindle motor to turn an optical disk;
an OPU to apply an image to a coating within a label region of the optical disk; and
an encoder configured to track substantially identical disk speed features in a first annular ring at a first radial position on the optical disk in a region distinct from the label region so as to thereby obtain disk speed data, the disk drive further configured to track disk angular orientation features different from the disk speed features in a second annular ring at a second radial position on the optical disk so as to thereby obtain angular orientation data, the second annular ring abutting the first annular ring, the annular rings proximate a central hub of the disk, the disk angular orientation features different from the disk speed features, an at least some of the disk angular orientation features having an overlapping angular position with at least some of the disk speed features.

Claim 22. A processor-readable medium comprising processor-executable instructions for labeling an optical disk, the processor-executable instructions comprising instructions for:
controlling a spindle motor within an optical disk drive to regulate angular speed of the optical disk;
interpreting output signals of an encoder resulting from sensation of substantially identical disk speed features defined in a first annular ring at a first radial position on the optical disk as the optical disk is spun by the spindle motor to produce disk speed data;

tracking disk angular orientation features defined in a second annular ring at a second radial position on the optical disk and different from the disk speed features to produce disk angular orientation data, at least some of the disk angular orientation features having an overlapping angular position with at least some of the disk speed features, the second annular ring abutting the first annular ring, and the annular rings proximate a central hub of the disk; and

marking a coating on the optical disk with an OPU, wherein the OPU is operated according to the disk speed data and the disk angular orientation data.

Rejections

The Examiner rejected claims 2, 4, 7, 8, 13, 16, 21, 22, and 24-33 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Honda (US 2002/0191517 A1), Klein (US 6,145,368), and Satoh (US 5,119,363).

The Examiner rejected claims 3, 6, 9, 11, 12, 14, 15, 17, 19, and 20 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Honda, Klein, Satoh, and Osborne (US 5,107,107).

The Examiner rejected claims 10 and 18 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Honda, Klein, Satoh, Osborne, and Nagashima (US 5,670,947).

Appellants' Contentions

Appellants contend that the Examiner erred in rejecting the claims under 35 U.S.C. § 103(a) for numerous reasons including: (1) the references alone or in combination fail to disclose certain claim limitations, (2) certain references are non-analogous art, (3) use of impermissible hindsight, (4) no showing of the level of skill in the art, (5) teaching away, (6) the

combination of the references would result in an inoperative device, and (7) no articulated reason to modify or combine. (App. Br. 7-35).

Issue on Appeal

Whether the Examiner has erred in rejecting claims 2-4, 6-22, and 24-33 as being obvious?

ANALYSIS

We have reviewed the Examiners' rejections in light of Appellants' arguments (Appeal Brief and Reply Brief) that the Examiner has erred.

We disagree with Appellants' conclusions. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. We concur with the conclusions reached by the Examiner.

CONCLUSIONS

(1) The Examiner has not erred in rejecting claims 2-4, 6-22, and 24-33 as being unpatentable under 35 U.S.C. § 103(a).

(2) Claims 2-4, 6-22, and 24-33 are not patentable.

DECISION ²

The Examiner's rejections of claims 2-4, 6-22, and 24-33 are affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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² Should there be further prosecution with respect to independent claim 22, and its dependent claims 6-12, 25, 29, and 33, the Examiner's attention is directed to 1351 Off. Gaz. Pat. Office 212 (Feb. 23, 2010); *Subject Matter Eligibility of Computer Readable Media*.